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T. 7, Ch. IX, Code of Fed. Regs.

Marketing Orders—Part 969

A
ORDER REGULATING THE HANDLING OF MILK IN THE SUBURBAN
CHICAGO, ILLINOIS, MARKETING AREA

CONTENTS

Section:	Page	Section:	Page
969.0 Findings and determinations.....	1	969.8 Payment for milk.....	12
969.1 Definitions.....	3	969.9 Expense of administration.....	13
969.2 Market administrator.....	4	969.10 Marketing services.....	13
969.3 Reports of handlers.....	5	969.11 Effective time, suspension, or ter- mination.....	13
969.4 Classification of milk.....	5	969.12 Agents.....	14
969.5 Minimum prices.....	8		
969.6 Application of provisions.....	11		
969.7 Determination of minimum prices to producers.....	11		

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 1940 ed. 601 *et seq.*)

§ 969.0 Findings and determinations.—(a) FINDINGS UPON THE BASIS OF THE HEARING RECORD. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders under the act (7 CFR, 1941 Supp., 900.1-900.17; 7 F.R. 3350;

8 F.R. 2815), a public hearing was held upon a proposed marketing agreement and upon a proposed order regulating the handling of milk in the Suburban Chicago, Illinois, marketing area. Upon the basis of the evidence introduced in such hearing and the record thereof, it is hereby found that:

(1) The issuance of this order regulating the handling of milk in the said marketing area, and all of the terms and conditions of this order, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) This order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement, upon which a hearing has been held; and

(4) The handling of all milk sold or disposed of in the marketing area, as defined herein, is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

(b) **ADDITIONAL FINDINGS.** (1) It is hereby found and proclaimed in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the pre-war period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such milk for the post-war period August 1919-July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture; and the post-war period August 1919-July 1929 is the base period to be used in connection with the said marketing agreement and this order in determining the purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will amount to approximately \$120,000 per year; and the prorata share of such expense to be paid by each handler is hereby approved in the maximum amount of 4 cents per hundredweight on all milk received from producers and produced by such handler during each delivery period.

(c) **DETERMINATIONS.** It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order) of at least 50 percent of the volume of milk which is marketed within the said marketing area refused or failed to sign the tentatively approved marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign such tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means pursuant to the declared policy of the act to advance the interests of the producers of milk which is produced for sale in the said marketing area;

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of the order and who, during the month of April 1944 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area; and

(4) The provision of this order providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers who participated in a referendum on the question of approval of such provision and who, during the month of April 1944 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area, said approval being separate and apart from the approval of producers as set forth in (3) above.

ORDER RELATIVE TO HANDLING

It is hereby ordered, That such handling of milk in the Suburban Chicago, Illinois, marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce

shall from the effective date hereof be in compliance with the terms and conditions of this order.

§ 969.1 Definitions. The following terms as used herein shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "War Food Administrator" means the War Food Administrator of the United States or any officer or employee of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers or to perform the duties of the War Food Administrator of the United States hereunder.

(c) "Suburban Chicago, Illinois, Marketing Area," hereinafter called "marketing area," means all of the territory geographically included within the city of Barrington in Lake County, the townships of Dundee, Elgin, St. Charles, Geneva, Batavia, and Aurora in Kane County, Cook, Du Page, and Will Counties, Illinois, and all of the territory geographically included within the townships of North, Calumet, and Hobart in Lake County, Indiana, except territory lying within the corporate limits of the cities and villages of Chicago, Evanston, Wilmette, Kenilworth, Winnetka, Glencoe, and Oak Park, in the State of Illinois.

(d) "Person" means an individual, partnership, corporation, association, or other business unit.

(e) "Producer" means any person, except as provided in § 969.6 (c), irrespective of whether such person is also a handler, who produces milk which is received at (i) a pasteurizing and bottling plant from which milk is disposed of as Class I milk in the marketing area, and (ii) any other plant of a handler from which milk is supplied to such a pasteurizing and bottling plant. This definition shall not be deemed to include any person as a producer with respect to such of his milk as is received by a handler under any other milk marketing agreement or order issued under the act.

(f) "Handler" means any person, except as provided by § 969.6 (c), who engages in handling milk, all, or any portion, of which is disposed of as Class I milk in the marketing area, and who engages in such handling of milk as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate commerce in milk or its products. This definition shall not be deemed to include any person who is a handler under any other milk marketing agreement or order issued under the act, with respect to such of his milk as is subject thereto.

(g) "Market administrator" means the agency which is described in § 969.2 for the administration hereof.

(h) "Delivery period" means the period from the effective date hereof until the end of the calendar month in which such effective date occurs. Thereafter, "delivery period" shall mean the current calendar month.

(i) "Cooperative association" means any cooperative association of producers which the War Food Administrator determines (1) to have its entire activities under the control of its members, and (2) to have and to be exercising full authority in the sale of milk of its members.

(j) "Grade A milk" means milk labeled Grade A or derived from receipts from which milk labeled Grade A is obtained.

(k) "Grade B milk" means milk not labeled Grade A nor derived from receipts from which milk labeled Grade A is obtained.

(l) "Nonhandler" means any person who is not a handler but who distributes fluid milk on retail or wholesale routes or engages in the manufacture of milk products.

§ 969.2 Market administrator—(a) **SELECTION, REMOVAL, AND BOND.** The agency for the administration hereof shall be a market administrator who shall be a person selected and subject to removal by the War Food Administrator. The market administrator, within 45 days following the date upon which he enters upon his duties, shall execute and deliver to the War Food Administrator a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the War Food Administrator.

(b) **COMPENSATION.** The market administrator shall be entitled to such reasonable compensation as shall be determined by the War Food Administrator.

(c) **POWERS.** The market administrator shall have the power to: (1) administer the terms and provisions hereof, (2) report to the War Food Administrator complaints of violations hereof, (3) make rules and regulations to effectuate the terms and provisions hereof, and (4) recommend to the War Food Administrator amendments hereto.

(d) **DUTIES.** The market administrator, in addition to the duties hereinafter described, shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein;

(2) Submit his books and records to examination by the War Food Administrator at any and all times;

(3) Furnish such information and such verified reports as the War Food Administrator may request;

(4) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(5) Publicly disclose, after reasonable notice, the name of any person who has not made reports, pursuant to § 969.3, or made payments required by § 969.8;

(6) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as does not reveal confidential information;

(7) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof; and

(8) Pay, out of the funds received pursuant to § 969.9, the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and in the performance of his duties, except those expenses incurred and provided for under § 969.10 hereof.

(e) **ANNOUNCEMENT OF PRICES.** The market administrator shall compute and publicly announce prices as follows:

(1) Not later than the 5th day after the end of each delivery period, the prices for all classes of milk pursuant to § 969.5 (a) and the differential pursuant to § 969.5 (c).

(2) Not later than the 14th day after the end of each delivery period, the uniform price for each handler computed pursuant to § 969.7 (b),

§ 969.3 Reports of handlers—(a) **SUBMISSION OF REPORTS.** Each handler shall report to the market administrator for each delivery period, in the detail and on forms prescribed by the market administrator, the following:

(1) On or before the 7th day after the end of each delivery period, all milk purchased or received from associations of producers and other handlers; and such handler shall submit to the market administrator and to the association of producers, or handlers, from whom the milk was purchased or received, a record of the utilization of such milk classified pursuant to § 969.4.

(2) On or before the 9th day after the end of each delivery period, the quantity, the butterfat test, and butterfat pounds of the receipts at each plant of (i) milk from producers, (ii) milk and cream from other handlers, (iii) milk and cream from sources other than producers and handlers, and (iv) milk produced by him; and shall report the utilization of all receipts of milk and cream.

(3) On or before the 9th day after the end of each delivery period, the information requested with respect to producer additions, producer withdrawals, and changes in the names of farm operators.

(4) On or before the 25th day after the end of each delivery period, his producer pay roll, which shall show for each producer (i) the total delivery of milk with the average butterfat test thereof, (ii) the net amount of payment to such producer made pursuant to § 969.8, and (iii) any deductions and charges made by the handler; and such other information with respect to producer payments as the market administrator may request.

(b) **VERIFICATION OF REPORTS AND PAYMENTS.** The market administrator shall verify all reports and payments of each handler by audit. Each handler shall keep adequate records of the receipts and utilization of milk and shall make available to the market administrator or his representative, during the usual hours of business, all records and facilities as are necessary to enable the market administrator to:

(1) Verify the receipts and disposition of all milk required to be reported pursuant to this section, and, in case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends; and

(3) Verify the payments of producers prescribed in § 969.8.

§ 969.4 Classification of milk—(a) **BASIS OF CLASSIFICATION.** All milk, skim milk, and cream received by a handler from producers (including milk produced by him), from associations of producers, from other handlers, and from all other sources, shall be reported by the handler in the classes set forth in (b) of this section, subject to the following conditions: (1) Milk or skim milk received by a handler from another handler shall be classified as Class I milk, and cream so transferred shall be classified as Class II milk: *Provided*, That if a different classification is agreed upon in written reports to the market administrator, then the milk, skim milk, and cream shall be classified according to such agreement, subject to verification by the market administrator: *Provided further*, That in no event shall the amount so reported in any class be greater than the amount used in that class by

the receiving handler; (2) Any milk or skim milk moved from the plant of a handler to the plant of a nonhandler shall be classified as Class I milk and any cream moved to a nonhandler shall be classified as Class II milk, except milk, skim milk, and cream in excess of the amount of fluid milk and fluid cream distributed by such nonhandler; and (3) Milk and cream moved from a plant which has been determined by the market administrator as not receiving milk from producers, to a handler's plant at which milk is received from producers, shall be classified in the lowest class for which such handler has milk.

(b) **CLASSES OF UTILIZATION.** Subject to the conditions set forth in (a) of this section, the classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of fluid milk (excluding bulk milk disposed of to bakeries, soup companies, and candy manufacturing establishments, which do not distribute fluid milk), including bulk milk disposed of to hotels, restaurants, and other retail food establishments, and all milk not accounted for as Class II milk, Class III milk, or Class IV milk.

(2) Class II milk shall be all milk, except skim milk, disposed of in the form of flavored milk and flavored milk drinks, and all milk the butterfat from which is disposed of in the form of sweet or sour cream, cottage cheese, and buttermilk.

(3) Class III milk shall be all milk the butterfat from which is used to produce a milk product other than one of those specified in Class II and Class IV, and all bulk milk and bulk cream disposed of to bakeries, soup companies, and candy manufacturing establishments, which do not distribute fluid milk.

(4) Class IV milk shall be all milk the butterfat from which is used to produce butter and cheese, except cottage cheese, and all milk accounted for as actual plant shrinkage not in excess of 2 percent of the total receipts of milk from producers (including the handler's own production). Any handler whose report claimed the original classification of milk in this class shall pay the difference between the Class IV and Class III prices for the delivery period in which the Class IV classification was claimed on any such milk, if the butterfat used in the production of butter is subsequently used in the production of ice cream or ice cream mix.

(c) **RESPONSIBILITY OF HANDLERS IN ESTABLISHING THE CLASSIFICATION OF MILK.** In establishing the classification of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

(d) **COMPUTATION OF MILK IN EACH CLASS.** For each delivery period, each handler shall compute, on forms prescribed by the market administrator, the amount of milk in each class, as defined in (b) of this section, as follows:

(1) Determine the total of the pounds of milk received from (i) producers (including the handler's own production), (ii) other handlers, and (iii) all other sources;

(2) Determine the total pounds of butterfat received by (i) multiplying the weight of the milk and cream received from each source by its respective average butterfat test, and (ii) adding together the resulting amounts;

(3) Determine the total pounds of milk in Class I by (i) converting to quarts the quantity of milk disposed of in the form of milk, and multiplying by 2.15, (ii) multiplying the result by the average butterfat test, and (iii) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II, Class III, and Class IV milk computed pursuant to (4) (ii), (5) (ii), and (6) (ii) of this paragraph, is less than the total pounds of butterfat received, computed in accordance with (2) of this paragraph, an amount equal to the difference shall be divided by 3.5 percent and added to the quantity of milk determined pursuant to (i) of this subparagraph;

(4) Determine the total pounds of milk in Class II by (i) multiplying the actual weight of each of the several products of Class II milk by its average butterfat test, (ii) adding together the resulting amounts, and (iii) dividing the result obtained in (ii) of this subparagraph by 3.5 percent;

(5) Determine the total pounds of milk in Class III by (i) multiplying the actual weight of each of the several products in Class III milk by its average butterfat test, (ii) adding together the resulting amounts, and (iii) dividing the result obtained in (ii) of this subparagraph by 3.5 percent; and

(6) Determine the total pounds of milk in Class IV by (i) multiplying the actual weight of each of the several products of Class IV milk by its average butterfat test, (ii) adding together the resulting amounts, (iii) subtracting the total pounds of butterfat in Class I milk, Class II milk, and Class III milk, computed pursuant to (3) (ii), (4) (ii), and (5) (ii) of this paragraph, and the total pounds of butterfat computed pursuant to (ii) of this subparagraph, from the total pounds of butterfat computed pursuant to (2) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purpose of this paragraph (but in no event shall such plant shrinkage allowance exceed 2 percent of the total receipts of butterfat from producers by the handler), and adding to the result obtained in (ii) of this subparagraph, and (iv) dividing the result obtained in (ii) of this subparagraph by 3.5 percent.

(7) Determine the classification of milk received from producers by (i) subtracting, subject to the provisions of (a) of this section, from the total pounds of milk in each class the total pounds of milk so used which were received from other handlers who receive milk from producers; and (ii) subtracting, subject to the provisions of (a) of this section, from the total pounds of milk in each class the total pounds of milk and milk equivalent of cream so used which were received from sources other than producers or handlers who receive milk from producers.

(e) RECONCILIATION OF UTILIZATION OF MILK BY CLASSES WITH RECEIPTS OF MILK FROM PRODUCERS. In the event of a difference between the total quantity of milk utilized in several classes as computed pursuant to (d) of this section and the quantity of milk received from producers, except for excess milk or the milk equivalent of butterfat pursuant to § 969.7 (a) (4), such difference shall be reconciled as follows:

(1) If the total utilization of milk in the various classes for any handler, as computed pursuant to (d) of this section, is less than the receipts of milk from producers, the market administrator shall increase the total pounds of milk in Class IV for such handler by

an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

(2) If the total utilization of milk in the various classes for any handler, as computed pursuant to (d) of this section, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk in Class IV for such handler by an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

§ 969.5 **Minimum prices**—(a) **CLASS PRICES**. Except as provided by (e) of this section, each handler shall pay to producers and to associations of producers, at the time and in the manner set forth in § 969.8, f. o. b. his plant or distributing station, located in the marketing area, from which milk is disposed of at wholesale or retail, not less than the following prices per hundredweight:

(1) **CLASS I MILK.** (i) The price of Grade A Class I milk shall be the price determined pursuant to (b) of this section, plus 70 cents: *Provided*, That beginning in 1945 the price for such Class I milk for the delivery periods of May and June of each year shall be the price determined pursuant to (b) of this section, plus 50 cents.

(ii) The price of Grade B Class I milk shall be the price determined pursuant to (b) of this section, plus 60 cents: *Provided*, That beginning in 1945 the price for such Class I milk for the delivery periods of May and June of each year shall be the price determined pursuant to (b) of this section, plus 40 cents.

(2) **CLASS II MILK.** (i) The price of Grade A Class II milk shall be the price determined pursuant to (b) of this section, plus 32 cents.

(ii) The price of Grade B Class II milk shall be the price determined pursuant to (b) of this section, plus 22 cents.

(3) **CLASS III MILK.** The price for Grade A or Grade B Class III milk shall be the average, computed by the market administrator, of prices reported by the United States Department of Agriculture (or by such other Federal agency as may be authorized to perform this price-reporting function) paid for milk containing 3.5 percent of butterfat delivered during the delivery period by farmers to each of the places or evaporated milk plants, as hereinafter listed and for which prices are reported, but in no event shall such price be less than the price computed pursuant to the formula set forth in (b) of this section.

<i>Concern</i>	<i>Location</i>
Borden Company-----	Black Creek, Wisconsin
Borden Company-----	Greenville, Wisconsin
Borden Company-----	Mount Pleasant, Michigan
Borden Company-----	New London, Wisconsin
Borden Company-----	Orfordville, Wisconsin
Carnation Company-----	Berlin, Wisconsin
Carnation Company-----	Jefferson, Wisconsin
Carnation Company-----	Chilton, Wisconsin
Carnation Company-----	Oconomowoc, Wisconsin
Carnation Company-----	Richland Center, Wisconsin
Carnation Company-----	Sparta, Michigan
Pet Milk Company-----	Belleville, Wisconsin
Pet Milk Company-----	Coopersville, Michigan
Pet Milk Company-----	Hudson, Michigan
Pet Milk Company-----	New Glarus, Wisconsin
Pet Milk Company-----	Wayland, Michigan
White House Milk Company-----	Manitowoc, Wisconsin
White House Milk Company-----	West Bend, Wisconsin

(4) CLASS IV MILK. The price for Grade A or Grade B Class IV milk shall be the price resulting from the following computation by the market administrator: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture (or by such other Federal agency as may be authorized to perform this price-reporting function) for the delivery period during which such milk was received, and add 20 percent: *Provided*, That such price shall be subject to the following adjustments: (1) add $3\frac{1}{2}$ cents per hundredweight for each full one-half cent that the price of nonfat dry milk solids for human consumption is above $5\frac{1}{2}$ cents per pound, or (2) subtract $3\frac{1}{2}$ cents per hundredweight for each full one-half cent that the price of such nonfat dry milk solids is below $5\frac{1}{2}$ cents per pound. For purposes of determining this adjustment the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices for nonfat dry milk solids for human consumption, f. o. b. manufacturing plant, as published by the United States Department of Agriculture (or by such other Federal agency as may hereafter be authorized to perform this price-reporting function) for the Chicago area during the delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determination of such nonfat dry milk solids for the previous delivery period. In the event prices for nonfat dry milk solids for human consumption, f. o. b. manufacturing plant, are not so published, the average of the carlot prices for nonfat dry milk solids for human consumption, delivered at Chicago, shall be used. In the latter event, the Class IV price shall be subject to the following adjustments: (1) add $3\frac{1}{2}$ cents per hundredweight for each full one-half cent that the price of nonfat dry milk solids for human consumption, delivered at Chicago, is above $7\frac{1}{2}$ cents per pound, or (2) subtract $3\frac{1}{2}$ cents per hundredweight for each full one-half cent that such price of nonfat dry milk solids is below $7\frac{1}{2}$ cents per pound.

(b) BASIC FORMULA PRICE TO BE USED IN DETERMINING CLASS I AND CLASS II PRICES. The basic formula price to be used in determining the prices per hundredweight of Class I and Class II milk, set forth in this section, shall be the price for Class III milk determined pursuant to (a) (3) of this section, the price for Class IV milk determined pursuant to (a) (4) of this section, or that derived from the following formula, whichever is the highest:

(1) Multiply the average wholesale price per pound of 92-score butter at Chicago for the delivery period as reported by the United States Department of Agriculture (or by such other Federal agency as may be authorized to perform this price-reporting function) by six (6);

(2) Add 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price of "Cheddars" shall be used in determining the price pursuant to this formula;

(3) Divide by seven (7); add 30 percent to the resulting amount; and

(4) Multiply the sum computed in (3) of this paragraph by 3.5.

(c) BUTTERFAT DIFFERENTIAL TO HANDLERS. If any handler has purchased or received milk from producers containing more or less than 3.5 percent butterfat, such handler shall add or deduct, per hundredweight of milk, for each one-tenth of 1 percent of butterfat above or below 3.5 percent, an amount computed as follows: to the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture (or by such other agency as may be authorized to perform this price-reporting function), add 20 percent and divide the result by 10.

(d) LOCATION ADJUSTMENTS TO HANDLERS. (1) With respect to milk purchased or received from producers at a plant located outside the marketing area and more than 70 miles by rail or highway, whichever is the shorter, from the City Hall in Chicago, Illinois, which is classified as Class I milk or Class II milk, there shall be deducted 10 cents per hundredweight, plus 2 cents per hundredweight and $\frac{1}{4}$ cent per hundredweight on each class, respectively, for each additional 15 miles or part thereof that such plant is located in excess of 70 miles from the City Hall in Chicago, Illinois: *Provided* That no such deduction shall apply to unaccounted-for milk classified as Class I milk pursuant to § 969.4 (d) (3) and such unaccounted-for milk shall be considered to have been received at the most distant plant at which the handler received milk from producers: *Provided further*, That if the l. c. l. freight rate, approved by the Interstate Commerce Commission or by the State authorities having power to fix intrastate rail rates, for the movement of cream in 40-quart cans from the shipping point for the plant where the milk is received from producers to the marketing area is greater than $\frac{1}{4}$ cent per hundredweight of milk such actual freight rate shall be allowed such handler on Class II milk, but in no case shall such rate exceed $\frac{1}{2}$ cent per hundredweight of milk. There shall be no location adjustment to handlers with respect to Class III milk or Class IV milk.

(2) For the purposes of this paragraph and of § 969.4, (i) Class I milk shall be considered to come first from that milk purchased or received from producers by the handler at his plant located in or nearest to the marketing area from which whole milk is disposed of in the marketing area: *Provided*, That when actual shipments of milk by any handler from two or more plants located in different zones are shown to be in excess of such handler's Class I milk, the location adjustments on Class I milk, as provided in this section, shall be applied to such milk, up to and including 110 percent of such handler's Class I milk; and (ii) Class II milk shall be considered to come first from that milk purchased or received from producers by the handler at his plant located in or nearest to the marketing area, after accounting for Class I milk, from which whole milk or cream is disposed of in the marketing area: *Provided*, That if milk for Class II use was received from producers at a more distant plant, location adjustment shall be allowed from the plant at which such milk was received from producers.

(e) ADJUSTMENT OF CLASS PRICES BY WAR FOOD ADMINISTRATOR. Whenever the War Food Administrator finds and announces that the Class I or Class II price determined pursuant to this section is not in accord with the public interest, the applicable price for the delivery

period shall be the same as the price for the same class for the delivery period immediately preceding.

(f) **EMERGENCY PRICE PROVISION.** Whenever the provisions hereof require the market administrator to use a specified price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy, or other similar payment, being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided*, That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *Provided further*, That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the War Food Administrator determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the War Food Administrator to be equivalent to or comparable with the price specified.

§ 969.6 Application of provisions—(a) **HANDLERS WHO ARE ALSO PRODUCERS.** (1) §§ 969.4, 969.5, 969.7, 969.8, 969.9, and 969.10 hereof shall not apply to a handler whose sole sources of supply of milk are receipts from his own production and from other handlers.

(b) **UNIFORM PRICES OF HANDLER OF BOTH GRADE A MILK AND GRADE B MILK.** If a handler operates both a plant (or plants) from which Grade A milk is disposed of in the marketing area and a plant (or plants) from which Grade B milk is so disposed of, the market administrator shall compute a separate milk value and uniform price for milk disposed of from each type of plant.

(c) **EMERGENCY MILK.** (1) Any handler may apply in writing to the market administrator for a determination that the supply of milk or cream available to such handler from sources usual to the marketing area is not sufficient to fulfill such handler's Class I and Class II milk requirements. If such a determination is made by the market administrator such handler, after giving notice to the market administrator of his intention to purchase milk or cream from other sources, may obtain such milk or cream from other plants on terms and conditions other than those provided in §§ 969.5, 969.7, and 969.8 hereof until such time as the market administrator shall revoke his determination; and such milk or cream shall be designated as "emergency milk."

(2) Emergency milk shall be reported to the market administrator by the handler separately from other milk. The person operating the plant from which the handler received such milk shall not be considered to be a handler with respect to milk disposed of in the marketing area under the circumstances described in this paragraph, and the persons who produced such milk shall not be considered to be "producers."

§ 969.7 Determination of minimum prices to producers—(a) **COMPUTATION OF VALUE OF MILK FOR EACH HANDLER.** For each delivery period the market administrator shall compute the value of all milk received by each handler from producers (including such han-

dler's own production and bulk milk received from handlers who are also producers) in the following manner:

(1) Multiply the total quantity of such milk in each class as determined pursuant to § 969.4 by the respective class prices;

(2) Add together the resulting values of each class;

(3) Add or subtract, as the case may be, the amount of the adjustments applicable pursuant to § 969.5 (c) and (d); and

(4) If, after taking account of milk subtracted under § 969.4 (d) (7) (i) and (ii), the handler's records show milk or butterfat in excess of the milk or butterfat which has been credited to his producers as having been delivered by them, add the value of such milk or milk equivalent of such butterfat in accordance with its utilization.

(b) **COMPUTATION OF UNIFORM PRICES FOR EACH HANDLER.** The market administrator shall compute for each handler the uniform prices per hundredweight of milk received during the delivery period, as follows:

(1) To the value computed pursuant to (a) of this section:

(i) Add the total amount of the location adjustments applicable pursuant to § 969.8 (c);

(ii) Deduct, if the average butterfat content of all milk received from producers is in excess of 3.5 percent, or add, if the average butterfat content of all milk received from producers is less than 3.5 percent, the total value of the butterfat differential applicable pursuant to § 969.8 (b);

(iii) Add an amount representing the fraction used in adjusting the previous month's uniform price to the nearest cent;

(iv) Divide by the hundredweight of milk received from producers; and

(v) Adjust the resulting figure to the nearest cent. This shall be known as the uniform price of the handler for milk of 3.5 percent butterfat content.

§ 969.8 Payment for milk—(a) TIME AND METHOD OF PAYMENT. On or before the 18th day after the end of each delivery period each handler shall pay to each producer, and to each association of producers, for milk purchased or received during the delivery period, an amount of money representing not less than the total value of such milk, at the uniform price per hundredweight computed pursuant to § 969.7 (b), subject to the location adjustments and butterfat differential set forth under (b) and (c) of this section.

(b) BUTTERFAT DIFFERENTIAL TO PRODUCERS. For each one-tenth of 1 percent of average butterfat content above or below 3.5 percent in milk received from any producer or association of producers during the delivery period, the uniform price paid to such producer or association of producers shall be plus or minus, as the case may be, an amount computed as follows: To the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the United States Department of Agriculture (or by such other agency as may be authorized to perform this price-reporting function), add 20 percent, and divide the result by 10.

(c) LOCATION ADJUSTMENTS TO PRODUCERS. In making payment pursuant to (a) of this section, handlers may deduct with respect to all milk purchased or received at a plant located outside the marketing area and more than 70 miles by rail or highway, whichever is the

shorter, from the City Hall in Chicago, Illinois, the amount specified as follows:

	<i>Cents per hundredweight</i>
Within 71 to 85 miles	12
Within 85.1 to 100 miles	14
Within 100.1 to 115 miles	16
Within 115.1 to 130 miles	18
Within 130.1 to 145 miles	20
Within 145.1 to 160 miles	22
Within 160.1 to 175 miles	24

For each 15 miles or part thereof beyond 175 miles from the City Hall in Chicago, Illinois, an additional $\frac{1}{2}$ cent per hundredweight.

(d) **CORRECTION OF ERRORS.** Errors in connection with any of the payments prescribed in this section shall be corrected not later than the next date for making payments, pursuant to this section, following the determination of such errors.

§ 969.9 Expense of administration. As his prorata share of the expense of administration hereof such handler, except handlers described under § 969.6 (a) (1), shall pay to the market administrator, on or before the 18th day after the end of each delivery period, an amount not exceeding 4 cents per hundredweight with respect to all milk purchased or received by him during such delivery period from producers (including the handler's own production), the exact sum to be determined by the market administrator, subject to review by the War Food Administrator.

§ 969.10 Marketing services—(a) MARKETING SERVICE DEDUCTION. In making payments to producers pursuant to § 969.8, each handler, with respect to all milk received from each producer during each delivery period, at a plant not operated by a cooperative association of which such producer is a member, shall, except as set forth in (b) of this section, deduct 3 cents per hundredweight (or such lesser amount as the market administrator shall determine to be sufficient, such determination to be subject to review by the War Food Administrator), and shall, on or before the 18th day after the end of such delivery period, pay such deduction to the market administrator. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing market information to such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to, the milk received from such producers.

(b) MARKETING SERVICE DEDUCTIONS WITH RESPECT TO MEMBERS OF PRODUCERS' COOPERATIVE ASSOCIATIONS. In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members and for whom a cooperative association is actually performing the services set forth in (a) of this section, each handler, in lieu of the deductions specified in (a) of this section, shall make such deductions from payments made pursuant to § 969.8 as may be authorized by such producers, and pay over, on or before the 18th day after the end of each delivery period, such deductions to the cooperative association rendering such service of which such producers are members.

§ 969.11 Effective time, suspension, or termination—(a) EFFECTIVE TIME. The provisions hereof, or any amendment hereto, shall

become effective at such time as the War Food Administrator may declare and shall continue in force until suspended, or terminated, pursuant to (b) of this section.

(b) **SUSPENSION OR TERMINATION.** Any or all of the provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the War Food Administrator may give and, in any event, shall terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) **CONTINUING POWER AND DUTY OF THE MARKET ADMINISTRATOR.** (1) If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the War Food Administrator so directs, be performed by such other person, persons, or agency as the War Food Administrator may designate.

(2) The market administrator, or such person as the War Food Administrator may designate, shall (i) continue in such capacity until removed, (ii) from time to time account for all receipts and disbursements and when so directed by the War Food Administrator deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the War Food Administrator shall direct, and (iii) if so directed by the War Food Administrator, execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) **LIQUIDATION AFTER SUSPENSION OR TERMINATION.** Upon the suspension or termination of any or all provisions hereof the market administrator, or such other person as the War Food Administrator may designate, shall, if so directed by the War Food Administrator, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to handlers and producers in an equitable manner.

§ 969.12 **Agents.** The War Food Administrator may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Issued at Washington, D. C., this 20th day of July 1944, to be effective on and after the 1st day of September 1944.

/S/ THOMAS J. FLAVIN,
Asst. to the War Food Administrator.

Approved: July 22, 1944.

/S/ FRED M. VINSON,
Director of Economic Stabilization.

